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Letter dated 24 July 2000 from the Secretary-General of the United Nations to the President of the Economic and Social Council

Further to my letter to you of 15 December 1999 concerning implementation of the advisory opinion of the International Court of Justice of 29 April 1999 on the Difference relating to immunity from legal process of a Special Rapporteur of the Commission on Human Rights (E/1999/124), I have the honour to inform the Economic and Social Council that, in a ruling issued on 7 July 2000, the competent judge of the High Court of Kuala Lumpur struck out the writ of summons in one of the four cases filed against Dato' Param Cumaraswamy, the United Nations Special Rapporteur on the independence of judges and lawyers in the Malaysian civil courts.

In dismissing the case, the judge stated that "the Malaysian Government had voluntarily acceded to be bound by the advisory opinion of the International Court of Justice" and that "it is also a fact that both the United Nations and Malaysia had agreed to accept the opinion given by the International Court of Justice as 'decisive by the parties'". He therefore concluded that he was "bound to give binding effect to the advisory opinion in this case" and proceeded to strike out the writ of summons. On grounds that the United Nations finds unacceptable, the judge in this case also decided that each party should bear its own costs in the proceedings. In this regard, the United Nations maintains its position that the Government of Malaysia is ultimately responsible for these costs in accordance with the advisory opinion of the International Court of Justice which, in commenting on the obligations of Malaysia, decided that Dato' Param Cumaraswamy must be held financially harmless from any costs imposed by the Malaysian courts.

While I welcome the fact that a competent court of Malaysia has finally upheld the advisory opinion of the International Court of Justice and therefore the immunity from legal process of the United Nations Special Rapporteur on the independence of judges and lawyers, I am nonetheless concerned that the ruling in question could be appealed by the plaintiffs and that it does not apply to the three other pending cases against Dato' Param Cumaraswamy. I also note that the Government of Malaysia has not itself taken any concrete steps to give effect to the advisory opinion.

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Notwithstanding the foregoing, I hope that, in the light of the precedent established in the above-mentioned ruling with respect to the remaining cases, I will finally be in a position to report to the Council in the very near future that the advisory opinion of the International Court of Justice has been fully implemented.

(*Signed*) Kofi A. **Annan**